

ZB# 99-40

Floyd Johnson

67-1-2.22

#99-40-Johnson, Floyd
Crea - 67-1-2.22.

Prelim.

Sept. 13, 1999.

(Aps. furnished)

Notice to be heard -

Public Hearing:

Sept. 27, 1999.

Granted

Refund \$184.50

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Johnson, Lloyd

FILE# 99-40

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA X

USE

APPLICATION FOR VARIANCE FEE \$ 50.00

*#1058
Paid 8/31/99*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 300.00

*#1059
Paid*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 9/13/99 \$ 22.50
2ND PRELIMINARY- PER PAGE 9/27/99 \$ 22.50
3RD PRELIMINARY- PER PAGE \$
PUBLIC HEARING - PER PAGE \$
PUBLIC HEARING (CONT'D) PER PAGE \$
TOTAL \$ 45.00

ATTORNEY'S FEES: \$35.00 PER MEEETING

PRELIM. MEETING: 9/13/99 \$ 35.00
2ND PRELIM. 9/27/99 \$ 35.00
3RD PRELIM. \$
PUBLIC HEARING. \$
PUBLIC HEARING (CONT'D) \$
TOTAL \$ 70.00

MISC. CHARGES:

..... \$
TOTAL \$ 115.50

LESS ESCROW DEPOSIT \$ 300.00
(ADDL. CHARGES DUE) \$
REFUND DUE TO APPLICANT. \$ 184.50

Date 10/22, 1999.

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Cadman's Design & Const. Service DR.
P.O. Box 662, Newburgh, NY 12550.

[illegible]

Cadman Design & Construction Service
PM 914-362-2310
P.O. Box 638
Newburgh, NY 12550
2/20/99
Pay to the order of John of New Windsor \$ 50.00
Fifty 00/100 Dollars
KeyBank National Association
Newburgh, New York 12550
TEL 1-800-887-2908
for DHR-78A #99-40 Lloyd Johnson
⑆021906934⑆ 323360019745⑆ 1058

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RECYCLED PAPER

GOthic SPLendor™ 8008

Cadman Design & Construction Service
PM 914-362-2310
P.O. Box 638
Newburgh, NY 12550
2/20/99
Pay to the order of John of New Windsor \$ 300.00
Three hundred 00/100 Dollars
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GOthic SPLendor™ 8008

In the Matter of the Application of

FLOYD JOHNSON

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCE**

#99-40.

WHEREAS, FLOYD JOHNSON, who's address is P.O. Box 662, ^{Newburgh} ~~New Windsor~~, New York 12550, has made application before the Zoning Board of Appeals for a 9,801 sq. ft. lot area, 17 ft. front yard and 3 ft. rear yard variances to construct a single-family residence on Dean Hill Road in an R-3 zone; and

WHEREAS, a public hearing was held on the 27th day of September, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared on behalf of this Application; and

WHEREAS, there was one spectator appearing at the public hearing; and

WHEREAS, the spectator asked a number of questions but was neither in favor or not in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property consisting of a one-family home located in a neighborhood containing one-family homes.

(b) The Applicant seeks a variance to allow the construction of a one-family home on a vacant lot.

(c) The Applicant previously applied for and obtained variances but these variances have expired without the Applicant having acted upon them.

- (d) The configuration of the lot is pie-shaped so that front and rear yard variances are necessary to allow the construction of a single-family home.
- (e) The house located on the property will be within the developmental coverage allowed by the statute so it should not cause significantly more water drainage from the property than exists presently.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
2. There is no other feasible method available to the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations but nevertheless are warranted for the reasons listed above.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances are appropriate and are the minimum variances necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 9,801 sq. ft. lot area, 17 ft. front yard and 3 ft. rear yard variances for construction of a single-family residence at the above address in an R-e zone, as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: November 22, 1999.


Chairman

Pls. publish immediately.

Send bill to Ap @ P.O. Box 662
Newburgh, NY 12550

PUBLIC NOTICE OF HEARING
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 40

Request of Floyd C Johnson

for a VARIANCE of the Zoning Local Law to Permit:

construction of single-family RESIDENTIAL
dwelling w/insufficient lot AREA FRONT YARD + REAR YARD

being a VARIANCE of Section 48-12 Table of use/bulk Regs-Cols C.E.G.

for property situated as follows:

DEAN HILL ROAD, NEW WINDSOR, N.Y.

known and designated as tax map Section 67, Blk. 1, Lot 2.22

SAID HEARING will take place on the 27 day of Sept, 1999 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent
Chairman

By: Patricia A. Barnhart, Secy.

Date 7/25/99, 19.....

TOWN OF NEW WINDSOR
TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO *Frances Roth* DR.
..... *168 N. Drury Lane*
..... *Newburgh, N.Y. 12550*

DATE			CLAIMED		ALLOWED	
7/13/99		Zoning Board Mtg	75	00		
		Misc - 3				
		Ross - 5				
		TGS Assoc. - 6				
		Johnson - 5				
		Anderson - 3				
		Qwest Realty - 3				
		Pospisil - 3				
		Ronaldi - 3				
		31				
			139	50		
			214	50		

JOHNSON, FLOYD

MR. NUGENT: Request for 9,901 square foot lot area, 17 ft. front yard and 3 ft. rear yard variances to construct a single family residence on Dean Hill Road in an R-3 zone.

Mr. Floyd Johnson appeared before the board for this proposal.

MR. JOHNSON: Actually, what I am requesting is July of '93, I put in a request for a variance and was granted that variance, but the variance ran out due to the designing of the property and getting finance. The 17 feet setback and the 3 feet are rear yard, I'm a little puzzled, I don't know where that number came from.

MR. NUGENT: Do you have a survey?

MR. JOHNSON: Yes.

MR. TORLEY: You said we had a variance granted on this before? This is expired?

MS. BARNHART: Yes.

MR. JOHNSON: It was in '93 that I had that. I would like to do the same thing. I'd like those same setbacks.

MR. KRIEGER: Well, the statute has changed since '93 and this recommendation or this list of things to do came from the building inspectors denial, so if he determines according to the statutes the way they exist now in 1999 that that's what's necessary, then that's what he put in his denial.

MR. NUGENT: Mike?

MR. BABCOCK: I just had to explain to them about the signs.

MR. NUGENT: We're just a little confused, Mr. Johnson, here, I have a survey in front of me and he needs a 17 foot front yard and a three foot rear yard?

MS. BARNHART: It's an R-3 zone.

MR. BABCOCK: Yes, he's required 30 feet.

MR. NUGENT: Front yard.

MR. BABCOCK: 35 feet is required.

MR. NUGENT: And he has 20? Oh, no.

MS. BARNHART: He has 18.

MR. BABCOCK: He's proposing 18 in the front.

MR. TORLEY: When they re-did the code, did that change any of these numbers?

MR. BABCOCK: No.

MR. NUGENT: Do you understand that now? The rear yard is 40 feet and you have 37, that's three foot request that we need.

MR. JOHNSON: Okay.

MR. NUGENT: In the front, evidently, it was you, you have 18 feet available and you need 35, so you need 17 foot variance.

MR. JOHNSON: Okay, I see what you mean.

MR. KRIEGER: Goes right in with the package.

MR. NUGENT: Don't cost anymore.

MR. TORLEY: If this gentleman already had a previously issued variance which has happened to expire, we have in the past made a practice of not, we have not required public hearings for renewal of an expired variance.

MR. KRIEGER: Well, the first two thing about that, first thing is I don't know why it expired, I mean, variances normally run with the land. So it must have

been some condition or some requirement that he get a building permit. He didn't get a building permit.

MR. BABCOCK: He has one year to obtain a permit or it's void.

MR. NUGENT: Which he didn't do.

MR. BABCOCK: '93.

MR. JOHNSON: I thought once I got the variance, it stayed with the land, I didn't know that it expired. I wasn't aware that it expired.

MR. NUGENT: Had you done what you proposed to do, it wouldn't have.

MR. JOHNSON: That's true.

MR. KRIEGER: Then the second thing is apparently this there are two elements in here, in this variance request that did not exist in the prior request, that being the front and the rear yard.

MR. TORLEY: I don't know how we could have--

MR. KRIEGER: I don't know either, but apparently, from what Mr. Johnson says, it was.

MS. BARNHART: No, it was included in the last variance application, different numbers, but it was included, front yard and rear yard.

MR. BABCOCK: Yeah, lot area numbers.

MR. KANE: He needs to go through the process, nothing we can do.

MR. REIS: There's nothing legal that we can do.

MR. TORLEY: No, we've had people on numerous occasions.

MR. KANE: Before they've extended that variance before the time ran out.

MR. NUGENT: He could have sent a letter to the board and had it extended.

MR. KANE: This is '93 and we're talking 6 years later, we've had people give them another year and another year. Under those circumstances, yeah, that warrants it.

MR. BABCOCK: He's asking for a lesser amount of variances this time, actually, was, you weren't the owner at that time, right, different owner?

MR. JOHNSON: I had just purchased it at that time.

MS. BARNHART: The Harrises were the owners.

MR. KANE: I don't foresee a problem but he needs to go through the process, again, six years, there's not much else you can do.

MR. NUGENT: Any further questions?

MR. KANE: No.

MR. TORLEY: Entertain a motion in this matter, I move that we grant Mr. Johnson the public hearing on his requested variances.

MR. KANE: Second the motion.

ROLL CALL

MR. MCDONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. NUGENT: Does he have his paperwork?

MS. BARNHART: Yes.

MR. KRIEGER: Okay, Mr. Johnson, if you would take this list here, that lists the criteria on which the zoning

September 13, 1999

18

board must decide. If you would address yourself to those criteria at the public hearing, that would be helpful.

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK**

In the Matter of the Application for Variance of

**AFFIDAVIT OF
SERVICE BY
MAIL**

Floyd Johnson
99-40, Applicant.

STATE OF NEW YORK)
COUNTY OF ORANGE) SS.:

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 9/16/99, I compared the 27 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
17th day of Sep, 1999.

Marybeth Stetson
Notary Public

MARY ANN HOTALING
Notary Public, State of New York
No. 01HO5062877
Qualified in Orange County
Commission Expires July 8, 2000

9/27/99 Public Hearing - Johnson, Floyd #99-40

Name:

Address:

under
protection

Luzong M. Synardy

85 Riley Rd. New Windsor

Date 10/18/99, 19...

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth DR.
168 N. Drury Lane
Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
10/99	Zoning Board Mtg	75 00	
	Misc - 2		
	Aldridge - 3		
	UGA Assoc. - 5		
	Maurice - 3		
	Jennings - 6		
	Thurman - 5 22.50		
	Ryan - 4		
	TLS Assoc. - 13		
	Gateway-Industrial Park - 4	202 50	
	<u>45</u>	<u>277 50</u>	

JOHNSON, FLOYD

MR. TORLEY: Request for 9,801 s.f. lot area, 17 ft. front yard and 3 ft. rear yard variances to construct single-family residence on Dean Hill Road in an R-3 zone.

Mr. Fred Johnson appeared before the board for this proposal.

MR. TORLEY: Is there anyone in the audience that wishes to speak on this? Please sign this then.

MS. BARNHART: Let the record show that on September 16, we sent out 27 notices to adjacent property owners regarding this application.

MR. TORLEY: Okay, Mr. Johnson.

MR. JOHNSON: Requesting 17 feet on the front yard and 3 feet on the rear yard to construct a single family home.

MR. TORLEY: So it's out of the required 32,000, looking for almost a third in reduction in lot area.

MR. KANE: Anything else that that can be, that goes on that particular property that wouldn't require it?

MR. TORLEY: No.

MR. KANE: That's the use available, correct?

MR. TORLEY: Correct.

MR. JOHNSON: I bought the lot based on the original variance that was granted that we would be able to build there.

MR. TORLEY: The variance had previously been granted but then time expired.

MR. JOHNSON: Yes, time elapsed.

MR. TORLEY: So you're proceeding with the same plan

that was first approved seven years ago, I guess?

MS. BARNHART: I have the date in here, if you wait for a second, I'll find it. It was--

MR. JOHNSON: Granted in '93.

MR. BABCOCK: 5/24/93.

MS. BARNHART: August 9, '93.

MR. KRIEGER: And you have been paying taxes on this property since then?

MR. JOHNSON: Yes.

MR. TORLEY: And insofar as the rear yard, I'm sorry, front yard and rear yard variances, they are simply due to the shape of the lot and where you'd be placing the house and there would not be a place where you can put the house without encroaching on one or the other of those?

MR. JOHNSON: No, because it's shaped like a pie, so the farther up we go, the less I have to work with.

MR. TORLEY: This would be a one-family house in an area of one-family houses?

MR. JOHNSON: Yes.

MR. TORLEY: Of approximately the same kind of size?

MR. JOHNSON: In general, I think the property across from me is two family, everybody else around me is one-family house.

MR. KANE: Again, no matter what would be built on the property, you would still need a square foot lot area variance on it?

MR. BABCOCK: Yes.

MR. TORLEY: At this point, I'll open the meeting to the public, anyone wishing to speak on this?

MR. GREGORY LENADI (PHONETIC): Gregory Lenadi, I live on Riley Road. The only question I have is as far as the runoff over there, we already get bombarded with water, if this house goes up, is that going to affect us anymore with anymore water coming down the road?

MR. TORLEY: Do we have topo of that, the slopes?

MR. BABCOCK: No.

MR. TORLEY: Does your property slope toward the road or away from the road?

MR. JOHNSON: It slopes, the whole all of the land goes towards Riley Road, but I don't see me building where I am building is going to affect where he's at on Riley Road.

MR. TORLEY: As I recall, 25 percent or 30 percent developmental coverage, Mike, off the top of my head?

MR. BABCOCK: It varies, again, Larry, I don't know without looking at the table myself.

MR. TORLEY: The Town has regulations as to how much of the lot can be covered with a house and hard surface, driveways to try to take into account runoff. So he's not requesting any variances over what any house would be allowed in that area, as far as how much of a house he can put on the property, how much could be hard surface for runoff, so theoretically, should not affect runoff more than any other house in the area and if the gentleman has been paying taxes on a lot for one-family house.

MR. LENADI: I have no problem with him building his house, I just want to know if in effect when he builds his house how much more water possibly will be coming down the hill?

MR. KANE: No way to tell.

MR. JOHNSON: I don't see anymore coming down the hill than already does.

MR. LENADI: Two pipes at the bottom of Dean Hill Road where Dean Hill and Riley meet is a gully and we have two pipes that go across Riley to take it to the cul-de-sac, there's a gully on the other side and they don't handle the water now. The thing I'm asking is when he puts up this house, is that going to send more water coming down that way?

MR. MCDONALD: Can I ask a question? Where are you located?

MR. LENADI: I'm on Riley and Dean Hill then you have the, what used to be a wetlands which aren't there anymore, a guy backfilled that. I'm buried in water.

MR. MCDONALD: It runs down Dean Hill Road.

MR. LENADI: Dean Hill to the right there are two 18 inch pipes to take it across Riley Road.

MR. MCDONALD: How is his house going to affect you? There's a house between you and Dean Hill anyway, right?

MR. LENADI: I'm on the bottom side of the slope.

MR. TORLEY: Sir, I'm not a hydraulic engineer, so I can't answer that question but--

MR. KANE: He's not overbuilding the property, so it shouldn't lead to an excess of water.

MR. JOHNSON: Would he get more runoff from the road than the road would give him more runoff than what I am getting, I'm too far away to affect it.

MR. KRIEGER: I suspect it has something to do with filling in the wetlands.

MR. KANE: Possible.

MR. LENADI: I have no problem with Mr. Johnson building his house, I'm more worried about more water coming downhill.

MR. KANE: With the type of development he's doing on that property for the property size, he shouldn't, he alone shouldn't create a lot more runoff.

MR. LENADI: Next question, are you having a well put on this property?

MR. JOHNSON: Yes.

MR. LENADI: Okay, last year I had to redrill my well because we ran low on water.

MR. KANE: He has a right to use his property.

MR. LENADI: I understand that.

MR. TORLEY: He can put a well on his property for his house, he couldn't necessarily put in a commercial well, well and septic or sewer line.

MR. JOHNSON: There is sewer.

MR. LENADI: Like I said, I have no problem building the house, I just wanted to know about those two things.

MR. TORLEY: Any other member of the public wishing wish to speak? If not, I'll close the public hearing and open it back up to the board members. Gentlemen?

MR. REIS: No further questions. I make a motion that we grant Mr. Johnson his requested variance.

MR. MCDONALD: Second it.

ROLL CALL

MR. MCDONALD	AYE
MR. KANE	AYE
MR. REIS	AYE
MR. TORLEY	AYE

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Prelim.
Sept. 13, 1999.
7:30 pm.
99-40.

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

**APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO
MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.**

DATE: August 6, 1999

APPLICANT: Floyd Johnson
P.O. Box 662
New Windsor, New York 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: July 27, 1999

FOR : One Family House

LOCATED AT: Dean Hill Road

ZONE: R-3

DESCRIPTION OF EXISTING SITE: 67-1-2.22

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Proposed one family house will not meet minimum lot area, required front yard and required rear yard set backs.


BUILDING INSPECTOR

PERMITTED	PROPOSED OR AVAILABLE:	VARIANCE REQUEST:
ZONE: R-3 USE: 7C, 7E, 7-G		
MIN. LOT AREA: 32,670	22,869	9801
MIN LOT WIDTH:		
REQ'D.. FRONT YD: 35'	18'	17'
REQ'D. SIDE YD: 15		
REQD. TOTAL SIDE YD:		
REQ'D REAR YD: 40	37	3'
REQ'D FRONTAGE:		
MAX. BLDG. HT.:		
FLOOR AREA RATIO:		
MIN. LIVABLE AREA:		
DEV. COVERAGE:		

cc: Z.B.A., APPLICANT, FILE W/ ATTACHED MAP

PLEASE ALLOW FIVE TO TEN DAYS TO PROCESS

IMPORTANT

YOU MUST CALL FOR ALL REQUIRED INSPECTIONS OF CONSTRUCTION

Other inspections will be made in most cases but those listed below must be made or Certificate of Occupancy may be withheld. Do not mistake an unscheduled inspection for one of those listed below. Unless an inspection report is left on the job indicating approval of one of these inspections it has not been approved and it is improper to continue beyond that point in the work. Any disapproved work must be reinspected after correction.

1. When excavating is complete and footing forms are in place (before pouring)
2. Foundation inspection. Check here for waterproofing and footing drains.
3. Inspect gravel base under concrete floors and underslab plumbing.
4. When framing is completed and before it is covered from inside and plumbing rough-in.
5. Insulation.
6. Plumbing final and final. Have on hand electrical inspection data and final certified plot plan. Building is to be completed at this time. Well water test required and engineer's certification letter for septic system required.
7. Driveway inspection must meet approval of Town Highway Superintendent. A driveway bond may be required.
8. \$50.00 charge for any site that calls for the inspection twice.
9. Permit number must be called in with each inspection.
10. There will be no inspections unless yellow permit card is posted.
11. Sewer permits must be obtained along with building permits for new houses.
12. Septic permit must be submitted with engineer's drawing and perc test.
13. Road opening permits must be obtained from Town Clerk's office.
14. All building permits will need a Certificate of Occupancy or a Certificate of Compliance and there is no fee for this.

RECEIVED

JUL 21 1999

BUILDING DEPARTMENT

PLEASE PRINT CLEARLY

FILL OUT ALL INFORMATION WHICH APPLIES TO YOU

Owner of Premises Floyd Johnson

Address DEAN HILL ROAD Phone 562-2719

Mailing Address P.O. BOX 662

Name of Architect CADMAN DESIGN & PAUL CUOMO

Address _____ Phone _____

Name of Contractor Gumbs

Address CITY TERRACE NEWBURGH Phone _____

State whether applicant is owner, lessee, agent, architect, engineer or builder OWNER

If applicant is a corporation, signature of duly authorized officer.

BOX
FOR OFFICE USE ONLY

Building Permit # _____

S.D. 19

Arrance Needed

1. On what street is property located? On the S side of DEAN HILL Road
(N, S, E or W)
and 300 feet from the intersection of Railly Road
2. Zone or use district in which premises are situated R-3 Is property a flood zone?
Y N ✓
3. Tax Map Description: Section 67 Block 1 Lot 2.22
4. State existing use and occupancy of premises and intended use and occupancy of proposed construction.
- a. Existing use and occupancy _____ b. Intended use and occupancy _____
5. Nature of work (check if applicable) New Bldg ☒ Addition ☐ Alteration ☐ Repair ☐ Removal ☐ Demolition ☐ Other ☐
6. Is this a corner lot? NO
7. Dimensions of entire new construction. Front _____ Rear _____ Depth _____ Height _____ No. of stories 2
8. If dwelling, number of dwelling units: 1 Number of dwelling units on each floor _____
- Number of bedrooms 4 Baths 2 1/2 Toilets 3
Heating Plant: Gas _____ Oil ☒ Electric/Hot Air _____ Hot Water ☒
If Garage, number of cars 2
9. If business, commercial or mixed occupancy, specify nature and extent of each type of use _____
10. Estimated cost 120,000 Fee _____
11. School District Newburgh To be Paid on this Application)

Costs for the work described in the Application for Building Permit include the cost of all the construction and other work done in connection therewith, exclusive of the cost of the land. If final cost shall exceed estimated cost, an additional fee may be required before the issuance of Certificate of Occupancy.

1 / 19

APPLICATION FOR BUILDING PERMIT
TOWN OF NEW WINDSOR, ORANGE COUNTY, NEW YORK
Pursuant to New York State Building Code and Town Ordinances

Building Inspector: Michael L. Babcock
Asst. Inspector: Frank Lisi
New Windsor Town Hall
555 Union Avenue
New Windsor, New York 12553
(914) 563-4618
(914) 563-4693 FAX

Bldg Insp Examined _____
Fire Insp Examined _____
Approved _____
Disapproved _____
Permit No. _____

REFER TO:

Planning Board ☐ Highway Dept ☐ Sewer ☐ Water ☐ Zoning Board of Appeals ☐

INSTRUCTIONS

- A. This application must be completely filled in by typewriter or in ink and submitted in duplicate to the Building Inspector.
- B. Plot plan showing location of lot and buildings on premises, relationship to adjoining premises or public streets or areas, and giving a detailed description of layout of property must be drawn on the diagram which is part of this application.
- C. This application must be accompanied by two complete sets of plans showing proposed construction and two complete sets of specifications. Plans and specifications shall describe the nature of the work to be performed, the materials and equipment to be used and installed and details of structural, mechanical and plumbing installations.
- D. The work covered by this application may not be commenced before the issuance of a Building Permit.
- E. Upon approval of this application, the Building Inspector will issue a Building Permit to the applicant together with approved set of plans and specifications. Such permit and approved plans and specifications shall be kept on the premises, available for inspection throughout the progress of the work.
- F. No building shall be occupied or used in whole or in part for any purpose whatever until a Certificate of Occupancy shall have been granted by the Building Inspector.

APPLICATION IS HEREBY MADE to the Building Inspector for the issuance of a Building Permit pursuant to the New York Building Construction Code Ordinances of the Town of New Windsor for the construction of buildings, additions, or alterations, or for removal or demolition or use of property as herein described. The applicant agrees to comply with all applicable laws, ordinances, regulations and certifies that he is the owner or agent of all that certain lot, piece or parcel of land and/or building described in this application and if not the owner, that he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application.

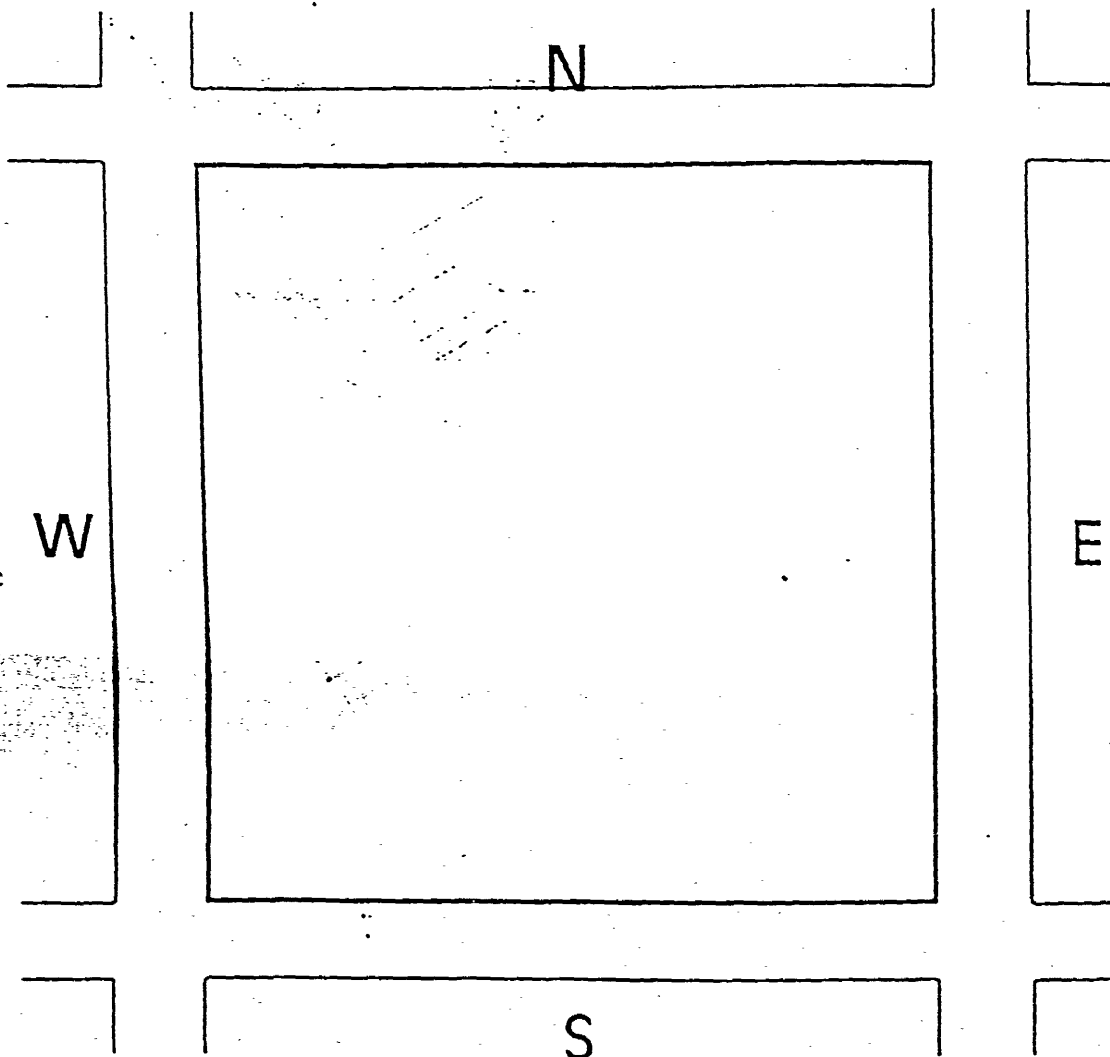
Floyd Johnson
(Signature of Applicant)

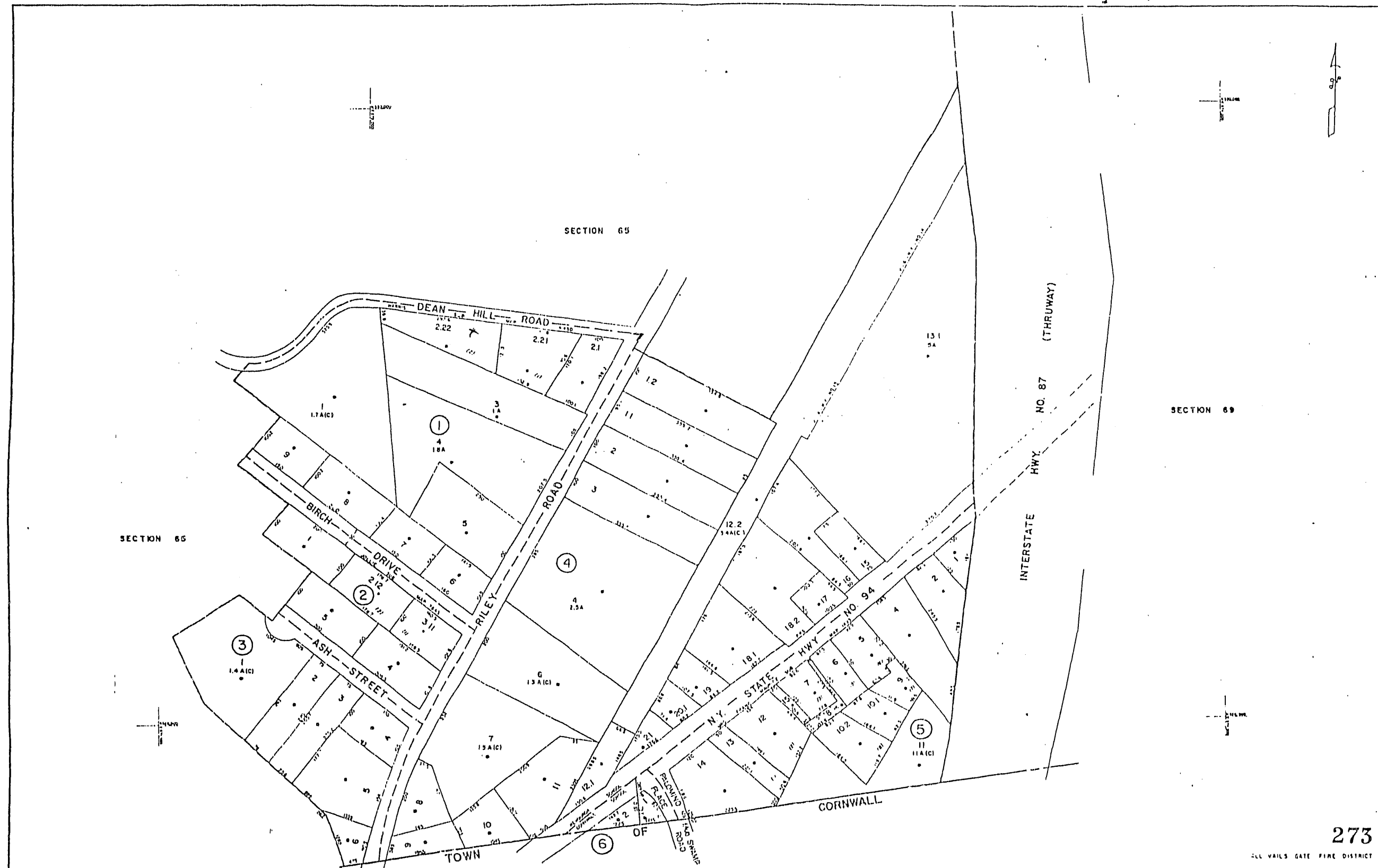
P.O. Box 662 Newburgh NY 12552
(Address of Applicant)

PLOT PLAN

NOTE:

Locate all buildings and indicate all set back dimensions. Applicant must indicate the building line or lines clearly and distinctly on the drawings.





273

ALL VAILS GATE FIRE DISTRICT

Prepared by
AERO SERVICE
CORPORATION
A DIVISION OF LITTON INDUSTRIES
FOR TAX PURPOSES ONLY
NOT TO BE USED FOR CONVEYANCE

LEGEND			
1. AERIAL PHOTOGRAPH	2. MAP SCALE	3. MAP SHEET NO.	4. MAP SHEET NO.
5. AERIAL PHOTOGRAPH	6. MAP SCALE	7. MAP SHEET NO.	8. MAP SHEET NO.
9. AERIAL PHOTOGRAPH	10. MAP SCALE	11. MAP SHEET NO.	12. MAP SHEET NO.
13. AERIAL PHOTOGRAPH	14. MAP SCALE	15. MAP SHEET NO.	16. MAP SHEET NO.
17. AERIAL PHOTOGRAPH	18. MAP SCALE	19. MAP SHEET NO.	20. MAP SHEET NO.
21. AERIAL PHOTOGRAPH	22. MAP SCALE	23. MAP SHEET NO.	24. MAP SHEET NO.
25. AERIAL PHOTOGRAPH	26. MAP SCALE	27. MAP SHEET NO.	28. MAP SHEET NO.
29. AERIAL PHOTOGRAPH	30. MAP SCALE	31. MAP SHEET NO.	32. MAP SHEET NO.
33. AERIAL PHOTOGRAPH	34. MAP SCALE	35. MAP SHEET NO.	36. MAP SHEET NO.
37. AERIAL PHOTOGRAPH	38. MAP SCALE	39. MAP SHEET NO.	40. MAP SHEET NO.
41. AERIAL PHOTOGRAPH	42. MAP SCALE	43. MAP SHEET NO.	44. MAP SHEET NO.
45. AERIAL PHOTOGRAPH	46. MAP SCALE	47. MAP SHEET NO.	48. MAP SHEET NO.
49. AERIAL PHOTOGRAPH	50. MAP SCALE	51. MAP SHEET NO.	52. MAP SHEET NO.
53. AERIAL PHOTOGRAPH	54. MAP SCALE	55. MAP SHEET NO.	56. MAP SHEET NO.
57. AERIAL PHOTOGRAPH	58. MAP SCALE	59. MAP SHEET NO.	60. MAP SHEET NO.
61. AERIAL PHOTOGRAPH	62. MAP SCALE	63. MAP SHEET NO.	64. MAP SHEET NO.
65. AERIAL PHOTOGRAPH	66. MAP SCALE	67. MAP SHEET NO.	68. MAP SHEET NO.
69. AERIAL PHOTOGRAPH	70. MAP SCALE	71. MAP SHEET NO.	72. MAP SHEET NO.
73. AERIAL PHOTOGRAPH	74. MAP SCALE	75. MAP SHEET NO.	76. MAP SHEET NO.
77. AERIAL PHOTOGRAPH	78. MAP SCALE	79. MAP SHEET NO.	80. MAP SHEET NO.
81. AERIAL PHOTOGRAPH	82. MAP SCALE	83. MAP SHEET NO.	84. MAP SHEET NO.
85. AERIAL PHOTOGRAPH	86. MAP SCALE	87. MAP SHEET NO.	88. MAP SHEET NO.
89. AERIAL PHOTOGRAPH	90. MAP SCALE	91. MAP SHEET NO.	92. MAP SHEET NO.
93. AERIAL PHOTOGRAPH	94. MAP SCALE	95. MAP SHEET NO.	96. MAP SHEET NO.
97. AERIAL PHOTOGRAPH	98. MAP SCALE	99. MAP SHEET NO.	100. MAP SHEET NO.

ORANGE COUNTY-NEW YORK

Photo No. 8-497,498 Date of Map 1-24-67
Date of Photo 3-1-62 Date of Revision 3-1-91
Scale 1" = 100'

TOWN OF NEW WINDSOR

Section No. 67



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

August 23, 1999

27

Mr. Floyd Johnson
P.O. Box 662
Newburgh, NY 12550

Tax Map Parcel #67-1-2.22

Dear Mr. Johnson:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this is \$45.00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

Leslie Cook
Sole Assessor

/lc
Attachments

cc: ~~Pat Burchart-2301~~

HUDSON VALLEY DEVELOPMENT
GROUP OF NEW WINDSOR LP
7 BECKER FARM ROAD
ROSELAND, NJ 07068

SARJON, LLC
C/O JACOBOWITZ & GUBITS
PO BOX 367
WALDEN, NY 12586

MICHAEL & ARLENE MCGOVERN
122 BIRCH DRIVE
NEW WINDSOR, NY 12553

GREGORY M & DIANE LYNADY
85 RILEY ROAD
NEW WINDSOR, NY 12553

WILLIAM & MARGARET MCDONNELL
PO BOX 995
WAITSFIELD, VERMONT 05673

WILLIAM G BYWATER
115 BIRCH DRIVE
NEW WINDSOR, NY 12553

RICHARD BARGER & DAVID STENGER
D/B/A WINDSOR HEIGHTS
PO BOX 306
HOPEWELL JUNCTION, NY 12533

PETER & ELAINE ESCALERA
61 RILEY ROAD
NEW WINDSOR, NY 12553

DONNA & PAUL MCCARTHY
58 RILEY ROAD
NEW WINDSOR, NY 12553

FRANK A & BARBARA J MANDATO
78 RILEY ROAD
NEW WINDSOR, NY 12553

BRYANT & ELLA & KELVIN HARRIS
701 PENNSYLVANIA AVENUE
WASHINGTON, DC 20004

BRYANT & ELLA MAE HARRIS
BOX 525
VAILS GATE, NY 12584

TERRY A & LESLIE A GORDNER
72 RILEY ROAD
NEW WINDSOR, NY 12553

ALTON & ALICE PETERSON
53 RILEY ROAD
NEW WINDSOR, NY 12553

ANDREW A STAHL JR
54 RILEY ROAD
NEW WINDSOR, NY 12553

RICHARD P & MARIE FITZPATRICK
PO BOX 526
BEACON, NY 12508

LINDA J CHAMPAGNE
24 TRUEX DRIVE
NEW WINDSOR, NY 12553

NILDA NATAL & ROBERTO ALVAREZ
50 RILEY ROAD
NEW WINDSOR, NY 12553

LESLIE M & ELIZABETH P SWEENEY
373 UNDERCLIFF AVENUE
EDGEWATER, NJ 07020

EDWARD JR & WENDY KIMBALL
41 RILEY ROAD
NEW WINDSOR, NY 12553

EDWARD MIELE
STATION STREET
PO BOX 116
SOUTHFIELDS, NY 10975

HARVEY & RUBY REED
PO BOX 185
VAILS GATE, NY 12584

DAVID & HELEN BARASKY
35 RILEY ROAD
NEW WINDSOR, NY 12553

ALLEN & KITTY DANTAS
958 LITTLE BRITIAN ROAD
NEW WINDSOR, NY 12553

ALICE MARY MULA
BOX 282
VAILS GATE, NY 12584

OMAT INC
501 BRAMERTOWN ROAD
TUXEDO PARK, NY 10987

ROBERT C CHAPMAN
20 OVERBROOK DRIVE
ARMONT, NY 10952

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
APPLICATION FOR VARIANCE

99-40

Date: 8/30/99

I. Applicant Information:

- (a) Floyd C Johnson P.O. Box 662 Newburgh 562-2719
(Name, address and phone of Applicant) (Owner)
- (b) _____
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☒ Use Variance ☐ Sign Variance
- ☐ Area Variance ☐ Interpretation

III. Property Information:

- (a) R-3 DEAW HILL ROAD 6714 22,869 SF
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? _____
- (c) Is a pending sale or lease subject to ZBA approval of this application? NO
- (d) When was property purchased by present owner? 3/93
- (e) Has property been subdivided previously? NO
- (f) Has property been subject of variance previously? NO
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: NO
- _____

IV. Use Variance. N/A

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: _____
(Describe proposal) _____
- _____

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No ✓.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of USE / Bulk Regs., Col. B, E, C.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>32,670 SF</u>	<u>22,869 SF</u>	<u>9801 SF</u>
Min. Lot Width _____	_____	_____
Reqd. Front Yd. <u>35</u>	<u>20</u>	<u>15</u>
Reqd. Side Yd. <u>15</u>	<u>15</u>	<u>Adequate</u>
Reqd. Rear Yd. <u>40</u>	<u>20</u>	<u>20</u>
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created.

Describe why you believe the ZBA should grant your application for an area variance:

PROPERTY IS SHAPED LIKE A TRIANGLE WITH SET BACK AS
THEY STAND LEAVING A BUILDING AREA OF 1000 SF WHICH IS TOO
SMALL AND LEAVING NO ROOM FOR GARAGE OR DECK. ADDITIONAL
LAND IS NOT AVAILABLE. ALSO HOUSE WAS DESIGNED ON SET
BACKS FROM VARIANCE DATED July 14, 1993

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law,
 Section _____, _____ Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. N/A

(a) Interpretation requested of New Windsor Zoning Local Law,
 Section _____, Table of _____ Regs.,
 Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The property will be constant with other properties in design and construction in the area.
The set back will NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD

IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☐ Copy of tax map showing adjacent properties.
- ☐ Copy of contract of sale, lease or franchise agreement.
- ☐ Copy of deed and title policy.
- ☐ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ N/A Copy(ies) of sign(s) with dimensions and location.
- ☐ Two (2) checks, one in the amount of \$_____ and the second check in the amount of \$_____, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: 8/30/99

STATE OF NEW YORK)
) SS.:
 COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

Sworn to before me this

30th day of August, 1999.

XI. ZBA Action:

(a) Public Hearing date: _____.

Lloyd Johnson
 (Applicant)

Melinda A. Trappe

MELINDA A. TRAPPE

NOTARY PUBLIC

STATE OF NEW YORK

COUNTY OF ORANGE

My Commission Expires March 30, 2000

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 2nd day of June, nineteen hundred and ninety three
BETWEEN BRYANT HARRIS and ELLA MAE HARRIS, residing at 167B Riley Road,
New Windsor, New York 12553

party of the first part, and FLOYD C. JOHNSON, residing at P.O. Box 662,
Newburgh, New York 12550

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, County of Orange, State of New York, being more particularly described as Lot No. 2 on "map of Bryant Harris and Ella Mae Harris" dated 9/12/86, filed in the Orange County Clerk's Office on 8/21/87 as Map No. 8450.

Being and intended to be part of property conveyed to party of the first part by deed from Michael Conden recorded 1/31/69 in Liber 1811 page 360.

**TAX MAP
DESIGNATION**

Dist.

Sec.

Blk.

Lot (s)

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration.

-----X

In the Matter of the Application of

DECISION GRANTING
AREA VARIANCES

BRYANT HARRIS & ELLA MAE HARRIS
/FLOYD JOHNSON,

#93-6.

-----X

WHEREAS, BRYANT HARRIS AND ELLA MAE HARRIS, P. O. Box 525, Riley Road, New Windsor, N. Y. 12553, as owners, and FLOYD JOHNSON, P. O. Box 662, Newburgh, N.Y. 12550, as contract purchaser, have made application before the Zoning Board of Appeals for a 9,801 s.f. lot area, 15 ft. front yard and 20 ft. rear yard variances in order to construct a single-family dwelling on a vacant lot located on Dean Hill Road in an R-3 zone; and

WHEREAS, one of the applicants, BRYANT HARRIS, previously presented an application for two lot area variances of 9,911 s.f. for Lot #1 and 9,911 s.f. for Lot #2 to the Zoning Board of Appeals, under File #87-17 at a public hearing which was held on the 11th day of May, 1987, and at the conclusion of said public hearing, this Board voted on a motion to grant the variances requested by the applicant, and the motion carried, and subsequently, this Board adopted a Decision Granting Area Variances, dated June 8, 1987 on said application, which was predicated upon former Section 267 of the Town Law of the State of New York, as it was in effect prior to July 1, 1992, and this Board hereby incorporates the record and decision on said prior application herein to the extent that the findings and conclusions therein have not been rendered moot by the subsequent amendment of the Town Law of the State of New York which repealed the said former Section 267, and added in its place new Sections 267, 267-a, 267-b, and 267-c, all effective as of July 1, 1992; and

WHEREAS, the applicants on the instant application, BRYANT HARRIS and ELLA MAE HARRIS, as owners, and FLOYD JOHNSON, as contract purchaser, now make application to the Zoning Board of Appeals, subsequent to the aforesaid amendments of the Town Law of the State of New York, now seek 9,801 s.f. lot area, 15 ft. front yard, and 20 ft. rear yard variances for Lot #2, i.e. one of the two lots which was the subject of the prior lot area variance, pursuant to the amended provisions of said Town Law, as the same are in effect after July 1, 1992; and

WHEREAS, a public hearing was held on the 10th day of May, 1993, and was adjourned to and continued on the 24th day of May, 1993 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicants ELLA HARRIS and FLOYD JOHNSON appeared at the hearings and spoke in support of the application; and

WHEREAS, there were three (3) spectators appearing at the May 10, 1993 initial public hearing, to wit, Mr. Richard P. Fitzpatrick of 168 Riley Road, a neighbor, objected to the requested variance because he believed that granting the same would allow the area to be degraded by allowing lots that were too small, houses too close to the road, and creating well problems because the septic fields were too close to the rear. He further objected because in his view, the neighborhood consisted of houses set back from the road on large lots and this applicant proposed a large house on a tiny lot. Mr. Gregory M. Lynady of 262 (85) Riley Road, objected to the construction of the single family dwelling because he felt it would aggravate an existing drainage problem in the area since he already has a problem with water in his basement. Upon learning that the applicants intend to install catch basins and that the drainage actually flows from the applicants' lands away from the Lynady property, Mr. Lynady withdrew his objection to the instant variance application; and

WHEREAS, the Zoning Board of Appeals has received a copy of a letter dated May 1, 1993, addressed to Ms. Myra Mason, Town of New Windsor Planning Board, from William McDonnell; who owns property which abuts the subject lot. Mr. McDonnell's letter requested that any variance be granted subject to the removal and cleaning up of debris on the Harris/Johnson lot. The letter also asked about Planning Board requirements for bonding the road, an issue not relevant to this Board's consideration. The third spectator, Ms. Carrie Wilson of 266 Riley Road, did not speak either for or against the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to lot area, front yard and rear yard in order to construct a single-family dwelling on a vacant lot located in an R-3 zone.

3. The evidence presented by the applicant substantiated the fact that a variance for less than the allowable lot area, front yard and rear yard would be required in order for the applicants to be able to construct a single-family dwelling on the applicant's vacant lot which otherwise would conform to the bulk regulations in the R-3 zone.

4. The evidence presented by the applicants indicated that one of the applicants, BRYANT HARRIS, apparently subdivided this property in August 1987 which is indicated on a stamped map showing that the New Windsor Planning Board granted final site plan approval on August 19, 1987. The map also referred to the previous lot area variances granted on June 8, 1987. It appears from the evidence presented by the applicants that a single family residential dwelling was constructed on Lot #1 pursuant to

the lot area variance previously granted thereon by this Board.

5. The evidence presented by the applicants further indicated that construction was not commenced and diligently pursued by the applicant on Lot #2 within 12 months after the date of the granting of the previous lot area variance thereon. Consequently the said variance became null and void pursuant to the provisions of the Zoning Local Law of the Town of New Windsor, New York Section 48-34G.

6. It is the finding of this Board that the instant application for a 9,801 s.f. lot area variance is substantially the same as the prior variance application for a 9,911 s.f. lot area variance for Lot #2. Apparently, recomputation has revised downward slightly the requested lot area variance but the configuration of the lot remains the same as the lot seen by this Board on the prior lot area variance application.

7. The evidence presented by the applicants at the public hearing indicated that they sought a 15 ft. rear yard variance on this application in addition to the slightly revised 9,801 s.f. lot area variance because, when the applicant, JOHNSON, the contract purchaser, began drawing his construction plans, it appeared that he could not locate an adequate size house within the required front and rear yard set backs. Lot #2 has wedge shape and, as a result, a house which conformed to the required set backs would have to have a pie-shape.

FRONT
YARD AND
A 20 FT.

8. The evidence presented by the applicant further indicated that a pie-shape house which conformed to the irregular lot size would not be useable, would not be aesthetic, and would still be too small to be constructed economically. The applicant indicated that a house on this lot would have to have at least three bedrooms to be constructed economically. This would be similar in size to other houses in the neighborhood.

9. The evidence presented by the applicant indicated that if all the requested variances were granted, the proposed house could be constructed economically on this lot. It would have the same lot area as the adjacent Lot #1. It would have smaller front and rear yards than some of the houses in the same area, but on balance, it would generally conform with the houses in the area and it would be able to have a garage and a deck, also like neighboring houses.

10. The Board considered turning the house to locate the same parallel to the rear line in order to ameliorate the impacts of the front yard variance but this alternative was rejected. It appeared that such alternatives would not reduce the visual impact of the front yard variance significantly and it would make the resulting house look out of character with the neighboring houses.

11. This Board has considered the objection raised by Mr. Fitzpatrick at the public hearing. This Board having previously granted similar lot area variances on Lot #1 and Lot #2 is hard pressed to find any significant change in circumstances which

would warrant the denial of the instant lot area variance application. Final site plan approval was obtained by the applicant, BRYANT HARRIS, in 1987 and a house has already been constructed on the similar size Lot #1. The mere passage of time and the expiration of the prior lot area variance on Lot #2 does not appear to have allowed any significant change in the neighborhood which would warrant denial of the instant lot area variance.

12. This Board finds the instant front yard and rear yard variances to be more troublesome. This Board views with some concern the change in the character of the neighborhood which Mr. Fitzpatrick raised. However, given the similar size Lot #1, which is immediately adjacent, and which already is improved with a single-family dwelling, the neighborhood already has an undersize lot. To deny this lot area variance would deny the applicant relief to which he was intitled under prior law. The applicant's argument that it would be uneconomic to construct a pie-shaped house which conforms to the setbacks has convinced this Board that the requested front yard and rear yard variances should be granted also on balance. This Board finds that there will be less adverse impact on the character of the neighborhood by granting the requested variances than by denying the same and merely forcing the applicant to construct an odd shaped and odd looking house, if indeed such a house could be economically constructed.

13. By granting the requested area variances, it appears that this Board will permit the applicant's proposed house to look more like the other houses in the neighborhood than would be the case if the variances were to be denied.

14. The evidence also indicated that applicant attempted to purchase additional land adjacent to this lot but the neighbor declined to sell any adjacent land and stated that he wanted to save the lot for his son.

15. It is the finding of this Board that the requested area variances, if granted, will not blight the proper and orderly development and general welfare of the community since Applicant JOHNSON has designed and will construct a residence which will conform, as much as possible to the existing character of the neighborhood, within the constraints set by the small size and to the odd shape of the lot in question.

16. The evidence presented by applicant substantiated the fact that the variances, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood since the proposed two-story residence, is designed to ameliorate, as much as possible, any negative impacts on the neighborhood by the granting of the requested area variances.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undersirable change in the character of the neighborhood or create a detriment

to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variances are substantial in relation to the bulk regulations for lot area, front yard and rear yard. However, it is the conclusion of this Board that the granting of the requested substantial variances are warranted here because the construction of a single-family dwelling on the subject lot would be the most suitable use for this undersized and unusual shaped lot and that this has minimal adverse impacts upon the neighborhood and the applicant, given the prior area variance and site plan approval and considering the economics of constructing an odd-shaped house.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is a self-created one since applicant HARRIS previously subdivided the lot thereby creating the undersized lot. As part of this process, the applicant, HARRIS, obtained the required lot area variance but allowed the same to expire before he commenced construction. However, the applicant is now in the process of correcting this situation by the appropriate application to this Board.

6. It is the finding of this Board that the benefit to the applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested lot area, front yard and rear yard variances are the minimum variances necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 9,801 s.f. lot area variance, a 15 ft. front yard variance and a 20 ft. rear yard variance to construct a single-family dwelling on the applicant's vacant lot located on Dean Hill Road in an R-3 zone as sought by applicants in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: August 9, 1993.

Chairman

(ZBA DISK#8C-021993.QH)